

IN THE IOWA SUPREME COURT

PLANNED PARENTHOOD OF
THE HEARTLAND AND JILL
MEADOWS, M.D.,

Petitioners,

v.

TERRY BRANSTAD EX REL.
STATE OF IOWA AND IOWA
BOARD OF MEDICINE,

Respondents.

SUPREME COURT NO.

POLK CO. NO. EQCE081503

**MOTION TO
EXPEDITE MOTION
FOR TEMPORARY
INJUNCTION AND, IN
THE ALTERNATIVE,
INTERLOCUTORY
APPEAL**

COME NOW Petitioners, by and through their undersigned attorneys, respectfully move for immediate, expedited review on their Motion for Temporary Injunction and in the alternative, Application for Interlocutory Appeal, and in support thereof state as follows:

1. Absent expedited review and relief from this Court, upon the Governor's signature to the enrolled bill which is attached as Exhibit A.1. ("the Act"), scheduled to occur on May 5, 2017 at 8:30a.m., Iowa women, including the 44 abortion patients Petitioner PPH has scheduled for

Friday, May 5, will be immediately and significantly burdened in their right to access abortion in the state.

2. The Act places significant new restrictions and burdens on women seeking abortions in Iowa. The Act's requirements pose immediate and serious medical risks and consequences, in addition to immediate, ongoing harms to Iowa women's constitutional and legal rights.
3. The Act requires that women in the state make an additional and medically unnecessary trip to a health center to have an ultrasound and be given certain state-mandated information regarding the abortion procedure, at least 72 hours before they can obtain abortions. The Act thus imposes a medically unnecessary mandatory delay.
4. Physicians who violate the mandatory delay and additional trip requirements are subject to licensee discipline. S.F. 471 § 1 (2017) (to be codified at Iowa Code § 146A.1(3)).
5. All women who have existing appointments to obtain abortions are already immediately restrained from obtaining an abortion according to their scheduled appointment times. Currently, PPH has 44 abortion patients scheduled for Friday, May 5, including 33 medication abortion patients. It also has 11 medication abortion patients scheduled for

Tuesday, May 9 and 28 abortion patients scheduled for Wednesday, May 10, including 19 medication abortion patients.

6. For some women, the delays caused by the Act can result in serious medical consequences, including the inability to obtain a medication abortion, requiring them to undergo a surgical procedure instead.

Medication abortion is medically indicated for health reasons for some women and is strongly preferred over surgical abortion by others for personal reasons. Medication abortion is more effective the earlier it is initiated, but is only available through 10 weeks dating from the woman's last menstrual period ("LMP"). The delay caused by the Act can push women past the gestational age at which medication abortion is an option. Over the past year, 30% of Petitioner Planned Parenthood of the Heartland's ("PPH") medication abortion patients were in their ninth or tenth week of pregnancy at the time of the procedure.

7. Patients who lose the ability to have a medication abortion will be forced to travel significantly farther to get a surgical abortion. That is because PPH only provides surgical abortion at two of its health centers, which are located in Des Moines and Iowa City; medication abortion is available at five additional health centers, which are spread across the

state in Burlington, Cedar Falls, Council Bluffs, Bettendorf (Quad Cities), and Sioux City. Therefore, a patient in Sioux City, for example, who loses her chance to have a local medication abortion will have to travel approximately 400 miles round-trip to Des Moines.

8. The mandatory delay requirement will also result in some women seeking a surgical abortion from being prevented from obtaining an abortion in the state altogether, because the delay will push them past the gestational age at which surgical abortions are available in the state. Surgical abortion is available at PPH's Des Moines health center, and at PPH's Iowa City health center. In the past year, PPH saw thirty patients at its Des Moines clinic who were within two weeks of the gestational age cut-off for surgical abortion there, and seventeen patients at its Iowa City health center who were within two weeks of the cut-off there. These patients will either have to travel out of state to obtain an abortion, or, if they do not have the resources to do so, carry a pregnancy to term.
9. Vulnerable groups of women will also be injured severely by these requirements including low-income women (who are at or below 110% of the federal poverty line), who make up the majority of PPH's abortion patients, as well as victims of sexual assault or domestic abuse, women

who have received a diagnosis of a severe fetal anomaly, and women with medical conditions that threaten their health but who do not fall into the narrow medical emergency exceptions stipulated in the Act.

10. While the Act requires abortion providers to provide women with information based upon certain state-created materials, see id. (to be codified at Iowa Code § 146A.1(1)(d)(1), (2)), the Act does not provide a date by which the state must make these materials available. Upon learning the Governor intends to sign the Act into law on May 5, Petitioners requested the materials from the department of public health, but at the time of filing this Petition have not received a response. See Exhibit A-2. Furthermore, the Board of Medicine has not yet promulgated rules to administer the Act, as required by S.F. 471 § 1 (2017) (to be codified at Iowa Code § 146A.1(5)).¹

WHEREFORE the Parties request the Court rule on Petitioners-Appellants' Motion for Temporary Injunction immediately. In the

¹ At the hearing today on May 4, 2017, the Respondents-Appellants stated that the Iowa Department of Public Health will develop materials to be available upon the signing at 8:30 a.m. tomorrow, May 5, 2017, but not in sufficient amount of time for Petitioners'-Appellees to make any operational plans based thereto. Furthermore, the Respondents-Appellants provided no indication that the Iowa Board of Medicine would promulgate rules needed to administer the Act by 8:30 a.m tomorrow, May 5, 2017.

alternative, the Petitioners-Appellants request this Court expedite its consideration of their Interlocutory Appeal. Given the emergency nature of this appeal, Petitioners-Appellants understand that oral argument may not be practical. However, to the extent it would be helpful to hear argument, counsel for Petitioners-Appellants is prepared to make such oral argument, and respectfully asks this Court, in that event, to set the matter for an emergency hearing.

Respectfully submitted,

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*Application for admission *pro hac vice* forthcoming